THE DECALOGUE JOURNAL

A PUBLICATION OF THE DECALOGUE SOCIETY OF LAWYERS

Volume 4 | JUNE - JULY, 1954 | Number 5

Supreme Court on Education

. . . In approaching this problem, we cannot turn the clock back to 1868, when the Amendment was adopted, or even to 1896, when Plessy V. Ferguson was written. . . Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship.

Today, it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment.

In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

We come then to the question presented: Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other "tangible" factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does. . . .

—CHIEF JUSTICE EARL WARREN

In unanimous opinion of U. S. Supreme Court, May 17, 1954 in School Segregation cases.

THE DECALOGUE JOURNAL

Published Bi-Monthly by

THE DECALOGUE SOCIETY OF LAWYERS

180 West Washington Street Chicago 2, Illinois

Telephone ANdover 3-6493

Volume 4 JUNE - JULY, 1954 Number 5

BENJAMIN WEINTROUB, Editor

IN THIS ISSUE

Decalogue Society Elects Elmer Gertz, President

Colonel Jacob M. Arvey, Installing Officer

The installation committee, Judge Samuel B. Epstein chairman, in charge of the ceremonies of the annual installation of officers and newly elected members of our Board of Managers, announces that the event will be celebrated July 25 at a luncheon in the Covenant Club. Colonel Jacob M. Arvey, a recipient of The Decalogue Society of Lawyers' Award of Merit, will be the installing officer. Both he and Judge Epstein are first employers of Elmer Gertz. Members are invited to bring guests.

The following officers and board members were elected at our Annual Meeting, May 21.

OFFICERS—1954-55

ELMER GERTZ - - - - - - - *President*
BERNARD H. SOKOL - - - *First Vice-President*
MORTON SCHAEFFER - - *Second Vice-President*
HARRY H. MALKIN - - - - - *Treasurer*
JUDGE HARRY G. HERSHENSON - - *Financial Secretary*
RICHARD FISCHER - - - *Executive Secretary*

BOARD OF MANAGERS

*EUGENE BERNSTEIN
JUDGE HENRY L. BURMAN
*ELLIOTT EPSTEIN
BERNARD E. EPTON
SAUL A. EPTON
*MATILDA FENBERG
HARRY G. FINS
REUBEN S. FLACKS
SAMUEL D. GOLDEN
*ALEX M. GOLMAN
LEONARD J. GROSSMAN
*SOLOMON JESMER
*L. LOUIS KARTON
SEN. MARSHALL KORSHAK
*MICHAEL LEVIN
MAX A. REINSTEIN
*H. BURTON SCHATZ
NATHAN SCHWARTZ
*MARVIN VICTOR
*MAYNARD I. WISHNER

*To be installed

Member of the Board of Managers for one year unexpired term caused by vacancy of Morton Schaeffer, nominated for office of Second Vice-President.

LOUIS J. NURENBERG

ANNOUNCEMENT

The W. J. Henderson Organization, Group Registrar for the Decalogue Society Group Health and Accident Plan, and Group Hospitalization Insurance, filed with the Decalogue Society a certificate of assumption to the effect that all policy holders' obligations of The Reserve Insurance Company, and American Income Association Company are assumed by the LaSalle Casualty Company, 545 North Michigan Ave., telephone MOhawk 4-6800.

My Administration — 1953-1954

By PAUL G. ANNES

AS THE YEAR OF MY STEWARDSHIP NEARS ITS end, it is appropriate that I give an accounting to myself and the Society. I draw on my memory and the Decalogue Journal. Which is a way of saying that the "Journal," under its devoted and effective Editor, past-president Benjamin Weintroub, does represent us very well. Particular mention is due him for the fine articles on legal subjects which he has been able to secure for the Journal from our members. And this is by no means his only service to the Society; his help has been of great value to me in many ways.

When I took office I said that the planning and exertions of many before me had gained our Society a well deserved reputation. All I really had to do was to maintain that standing. I believe we have done so; perhaps we have made that position even more secure.

Of course, many have a claim for whatever was accomplished. At most, the President can only suggest, direct and contribute his small share of effort. And for the cooperation of so many of our members, I am sincerely grateful. —It is difficult to mention names; there is always the unintended omission of some, and the embarrassment because of it.—It has surely been a very pleasant experience, sharing the work and responsibilities of conducting the affairs of the Society this past year.

A few occasions and events stand out particularly. We all recall the address of Prof. Benjamin Akzin, Dean of the Law School of Hebrew University. The Legal Education Committee, under the able chairmanship of Maynard Wishner, arranged a number of other successful luncheon addresses; to mention only three: by members Harry Fins, Milton Hermann, and our vice-president, Bernard H. Sokol. More recently the members attended a very enjoyable and informative Probate Clinic "exhibition." Perhaps this is the place to mention the progress in the Scholarship and Fellowship Fund initiated the year before, under the guidance of my immediate predecessor, the ever-helpful Harry A. Iseberg. The success of this Fund was made possible by the activity of Judge Samuel Epstein and Nathan Schwartz. Correspondence is currently going on to select the first Israeli Fellow to come to the United States for post-graduate study under the Decalogue Society's grant.

As these lines are written, we are in the midst of a new and successful project which should please all of us. This number of our Journal (p. 9) contains a description of "The Harvard Law School—Israel Cooperative Research for Israel's Legal Development," by member Joseph Laufer, in charge of this program at the Harvard Law School. Inspired by Judge Harry M. Fisher, a committee of the Society, headed by Senator Marshall Korshak, has already sent to the Harvard Law School one thousand dollars, as the first installment of moneys raised by them for this enterprise. And this is only a beginning.

While speaking of education, special thanks are due Alec Weinrob and past-president Oscar M. Nudelman for their distinguished leadership of the Great Books Course. It has been well attended and promises to become a permanent institution in the Society.

The monthly luncheon forums, under the chairmanship of our much liked and esteemed Saul Epton, brought to us a number of interesting personalities during the year, among them: A. T. Burch, associate editor of the Chicago *Daily News;* Mrs. Harold Ickes; Milburn P. Akers of the Chicago *Sun-Times;* and most recently, Phillip M. Klutznick, national president of B'nai B'rith.

One innovation suggested by your President was the cocktail party in honor of the Judiciary, which took place last December. The success of the occasion makes it appear probable that it will become an annual affair. Another new activity: the President appointed Bernard Weissbourd as chairman of a committee to

study the various problems involved in integrating the study of the law in the law schools with the work and work opportunities after graduation. This Committee is now in the midst of its investigation and we may expect a useful report in the months ahead.

The work and value of many members is not to be found on any written page. The Society would suffer greatly but for the continuing help of past presidents like Samuel Allen, Harry D. Cohen, Jack Dwork, Roy I. Levinson, David F. Silverzweig and Carl B. Sussman, besides those elsewhere mentioned. No one will soon forget the wonderful service of mercy rendered by past-president Maxwell M. Andalman early in the year in behalf of a worthy member in particular distress. And there is the work of so many other members on different committees. To mention at least a few more of the chairmen who particularly devoted themselves to their assignments: Elliot Epstein, Reuben S. Flacks, Alex M. Golman, Matilda Fenberg, Harry A. Iseberg, Solomon Jesmer, Michael Levin, Louis J. Nurenberg, Max Reinstein, Morton Schaeffer, H. Burton Schatz, Judge George M. Schatz, and Marvin Victor. Nor must I fail to mention my sincere thanks to Harry H. Malkin, our treasurer; Judge Norman Eiger, financial secretary; and Judge Richard Fischer, our executive secretary, for their help throughout my term.

On a national level, the Society was host at a luncheon on Dec. 30th last at the Blackstone Hotel to the Tau Epsilon Rho International Legal Fraternity, which held its Convention in Chicago at that time. It was a remarkable occasion in many ways (See Vol. 4, No. 3, Decal. Journal, p. 6). Our Society had decided against forming, at this time, affiliated chapters in other cities, but rather to help other groups form similar organizations in their communities. In the meantime we continue to attract to our rolls many out-of-town members.

The highlight of the year was understandably the Patriotic Dinner, held on February 20th. It was a memorable event (See Vol. 4, No. 4 Decal. Journal, pp. 3-8). The interorganization awards were given to Reuben S. Flacks and Michael Levin for their outstanding service; then an address on "The Rights of Man," by Nobel prize winner Professor Harold C. Urey; followed by the presentation of the Award of Merit—in absentia—to Professor Albert Einstein. This presentation, "through the lens of a camera," made possible by the combined skills of past-presidents Oscar Nudelman and Benjamin Weintroub, had many moving and even poignant moments; those who saw and heard it will not soon forget the evening. And finally, the recorded response of the great and humble Einstein. . . .

It is certain that I have left out the names of many members. As I meet them, they will know that it was an oversight and that I am thankful to everyone who has helped me fulfill the duties of the Office and keep the Society the kind of an institution it has come to be. I have not accomplished everything and I am sure that none of my successors will ever want any President following him to complain, like Alexander the Great, that there was nothing left for him to conquer.

It is pleasant to anticipate that the next President will carry on the traditions of our past—now a full generation old—and move forward to new accomplishments. We all know how much Elmer Gertz has given to the Society, particularly as Chairman of the Civic Affairs Committee. His abilities, his background and his energy give promise of a very good year to come for our organization.

EINSTEIN—Living Symbol of the Social Conscience

The choice of Dr. Albert Einstein for the 1953 Award of The Decalogue Society of Lawyers is a most propitious one. Dr. Einstein—preeminent in his specialty of mathematics—is also a living symbol of the social conscience necessary if civilization is to survive. His voice is always on the side of justice and tolerance and respect for the dignity of man. He is a leader among men who think that our political inventiveness must keep up with our scientific genius if we are to have flexibility for survival in these revolutionary days.

WILLIAM O. DOUGLAS
Justice, United States Supreme Court

The Abuse of Zoning Power

By LEONARD J. BRAVER

In recent months, zoning power and practices have been in the public eye for one reason or another. Bribery of public officials in such matters has been more than hinted. Not long ago, an editorial in one of Chicago's newspapers stated that "Zoning in Chicago is so shot with exceptions won by political corruption that on occasion city lawyers have hesitated to appeal adverse rulings of the lower courts for fear the Supreme Court would say that the whole zoning code, undermined as it is by spot zoning, is unconstitutional." [1] This is as it may be. It is submitted, however, that inefficient and unsound enforcement of existing zoning laws in Chicago has had as much if not more undermining influence on zoning than the exceptions won by political corruption. Such a situation is presented in this article, occasioned by a recent decision of the Illinois Supreme Court,[2] and concerns an attack by the City of Chicago on a co-operative endeavour by parents to operate a pre-kindergarten school for their children in a residential area of Chicago.

Few will question the need for zoning legislation today, particularly in metropolitan areas with their complex needs. Admittedly, it is rare indeed that city planners, acting in advance, are able to design and establish a model city, with its separate and specific areas for homes, apartments, business, commercial and industrial districts. Accordingly, the public welfare clearly requires—nay, demands—zoning legislation.

The basic legality for the exercise of zoning powers is found in the police powers of the state, and was so recognized some time ago by our highest courts.[3] Under its police powers, and pursuant to enabling legislation of the state legislature,[4] the first comprehensive zoning ordinance for the city of Chicago was adopted in 1923, substantially amended in December, 1942, and with other amendments passed from time to time exists as a part of our municipal code.[5]

The overriding restriction upon the exercise of this power is that the action taken by zoning authorities have a real and substantial relation to the public health, safety, morals or general welfare.[6] Once this relationship is established, and so long as the exercise of power is not otherwise constitutionally objectionable because unreasonable, arbitrary or discriminatory,[7] there no longer can be any question of the right on the part of the municipality to act. Judicial review of such administrative action is well established, and a presumption of legality is indulged in, whenever a zoning ordinance is attacked.[8]

While it is not the purpose of this article to point up the weaknesses of the existing ordinance, (even now, a comprehensive revision of the Chicago Zoning Ordinance is making its way to ultimate passage by the city council,) the case hereafter mentioned is indicative of a singular lack of understanding on the part of our enforcing agency, namely, the building commissioner's office, as to the needs for and requirements of sound and intelligent zoning.

In this case, the defendant, Rogers Park Playschool, Inc., organized under the Not-For-Profit Corporation law of Illinois, owned a two-story brick building, formerly a one-family dwelling, on a residential street in Rogers Park, on Chicago's far North Side. The immediate area was zoned as an apartment house district.[9] Other uses permitted in the district by the

[1] *Chicago Daily Tribune*, Feb. 19, 1954.

[2] City of Chicago vs. Rogers Park Playschool, Inc., 1 Ill. (2d) 342.

[3] Village of Euclid vs. Ambler Realty Co., 272 U. S. 365.
City of Aurora vs. Burns, 319 Ill. 84.

[4] Chap. 24, Art. 73, Ill. Rev. Stats., 1953.

[5] Sec. 194A, Municipal Code of Chicago.

[6] Trust Company of Chicago vs. City of Chicago, 408 Ill. 91.
Pioneer Sav. Bank vs. Village of Oak Park, 408 Ill. 458.
Metropolitan Life Ins. Co. vs. City of Chicago, 402. Ill. 581.
People ex rel Joseph Lumber Co. vs. City of Chicago, 402 Ill. 321.
Quilici vs. Village of Mount Prospect, 399 Ill. 418.
Offner Electronics vs. Gerhardt, 398 Ill. 265.

[7] The Catholic Bishop of Chicago vs. Kingery, 371 Ill. 257.
Johnson vs. Village of Villa Park, 370 Ill. 272.

[8] See citations in 6 and 7 above.

[9] Chap. 194A—Sec. 8, Chicago Zoning Ordinance.

ordinance were a boarding or lodging house, hotel, hospital, home for dependents or nursing home; a boarding school, vocational school, college or university when not operated for pecuniary profit; a club, fraternity or sorority house, when not operated for pecuniary profit; a public art gallery, library or museum. The ordinance also allowed generally, any use permitted in a Family Residence District, which, among other things, permitted the use of property in the district for a church, convent; a grade, high school or Sabbath school, when not operated for pecuniary profit.[10]

In this district, the defendant corporation operated a nursery school or pre-kindergarten playschool for children of the age of three to five inclusive. The school was conducted on recognized nursery school standards, with a professional staff schooled and trained in nursery school education. As distinguished from a day nursery, in which the emphasis is placed on simply custodial care of children of working mothers, the emphasis in nursery schools is on the schooling and educational value to the preschool child. Educators in the field of nursery school education are united in the belief that the nursery school is one of today's answers to the continuing search for a better development of and environment for the very young child, and its value for that purpose is recognized.[11]

The City in the case at bar took the extremely narrow view that the ordinance in question did not in express terms include a nursery school or playschool among the permitted uses, and therefore filed a quasi-criminal complaint, charging violation of the zoning ordinance. Defendant argued, first, that it was a not-for-profit school, therefore a permitted use within the intent of the ordinance allowing such schools; second, that if not so construed, then the application of the ordinance to the use of defendant's property was unlawful, in that it was arbitrary, discriminatory and capricious, and had no foundation in the public welfare, health, morals or safety; and finally, that if the ordinance was allowed to stand as to defendant's use, its effect was to deprive defendant of its property without due process or without just compensation, in violation of both the State and federal constitutions.[12] These arguments were unavailing. The lower court found defendant guilty and assessed a fine. A direct appeal was taken to the Illinois Supreme Court, and these objections were there urged again.

It is interesting to note, at this point, that the Supreme Court rejected the argument that defendant's school was a school within the meaning of the ordinance, holding that since the ordinance expressly listed the uses to which property in the area could be devoted and was apparently intended to be specific, the Court could not allow any other use by implication. Further, it held that a grade school contemplated a school divided into grades, which did not exist in defendant's school. It is difficult to accept this distinction, since the grade schools in Chicago include kindergarten classes. In fact, the Illinois legislature has provided for the establishment of nursery schools for the instruction of children between the ages of two and six,[13] and no valid reason, it is submitted, appears to justify this discrimination against the pre-kindergarten school in this fashion.

The Iowa Supreme Court had occasion not long ago to pass on a substantially similar case. In holding a nursery school was a private elementary school within the meaning of the zoning ordinance, it said:[14]

> "Although public elementary schools include only kindergarten and the first eight grades, we see no reason why private elementary schools may not include such a school as defendants operate. Public elementary schools include the first school the public provides for beginners—kindergarten. Why may not private elementary schools likewise include the first school they provide for beginners—the nursery school?"

Furthermore, nowhere in the Chicago Zoning Ordinance, as amended, does the operation of a nursery school or playschool exist as a permitted use. Can it be said, therefore, that such schools have no place in the zoning scheme for Chicago, or, because no express provision has been made in the ordinance, they cannot exist in the city at all? Clearly, it is submitted, there

[10] Chap. 194A—Sec. 5, Chicago Zoning Ordinance.

[11] Kellog's Nursery School Guide, 1949.
Infant And Child In The Culture Of Today, Drs. Arnold Gesell and Frances L. Ilg, 1943.
Nursery School Education, Foster and Mattson, 1939.
Practice In Preschool Education, Updegraff, 1938.

[12] 5th and 14th Amendments to U. S. Constitution.
Art. II, Secs. 2 and 13, Illinois Constitution.

[13] Chap. 122, Secs. 7-19, Ill. Rev. Stats., 1953.

[14] Livingston vs. Davis, 50 N. W. (2) 592, Iowa.

is no power on the part of the municipality to entirely exclude such a school from the city environs, and one would think that, in its customary effort to hold an ordinance constitutional if it can at all be made so to appear, the Supreme Court would have held such a school to be an implied use under the ordinance permitting other schools when operated not for pecuniary profit. Nevertheless the Court rejected this argument.

Instead, the Court addressed itself to the aspects of unconstitutionality in the case. Reversing the judgment of the trial court, it pointed out that where the application of a zoning ordinance, in particular cases, was so arbitrary and unreasonable as to result in confiscation of property, the courts would strike it down, and said: [15]

> "Under this ordinance defendant's property might be used for a grade school, high school, boarding school, vocational school, college or university. We fail to see how a prekindergarten or nursery school is more detrimental to public health, safety, or welfare than is a grade school, for example; or, indeed, how it can be considered objectionable at all in an apartment-house district."

and, concluding, it said:

> "An ordinance cannot be sustained which permits designated uses of property while excluding other uses not significantly different. As applied to defendant's property under the present circumstances, the ordinance is capricious and unreasonable, and is therefore invalid."

Here then, it is submitted, is an instance of the abuse of the zoning power and of judicial restraint placed thereon in the protection of private property. With vital zoning needs crying to be met, the City of Chicago chose to attack the pre-kindergarten child. Where, indeed, such a school could operate to best advantage other than in a residential neighborhood is not apparent, nor, obviously, did the enforcing authorities concern themselves with the question. Blind enforcement, without logic or reason, it would seem, dictated the action.

The writer does not intend to imply that the problem of sound zoning is a simple one. Attempting to prescribe specific areas to be used for specific purposes, thereby limiting and proscribing the uses of private property, is truly a task for a Solomon. We have no Solomon in our midst. However, no zoning legislation can possibly succeed unless, once enacted, the power granted to the municipality thereby is exercised intelligently, with understanding for its intent and purpose, and with appreciation for the community's needs. The problem, which is not peculiar to zoning, of course, is therefore two-fold: first, the enactment of sound zoning legislation; second, the appointment of capable and understanding administrators to enforce it. A true solution to the problem of constructive city development and the arrest of its progressive deterioration can be found in no other way.

[15] City of Chicago vs. Rogers Park Playschool, Inc., 1 Ill. (2d) 342, 345.

EMPLOYMENT AND PLACEMENT COMMITTEE

Two hundred and twelve recent graduates of law schools, applicants for positions in law offices, were interviewed during the last twelve months by our Placement and Employment committee; thirty nine of these obtained employment through its efforts. Fifty eight members of our Society sought the assistance of the committee to fill vacancies in their offices with the recently admitted members of the Illinois Bar.

The above is culled from the annual report of Michael Levin, member of our Board of Managers and chairman of The Decalogue Placement and Employment Committee. It is the recommendation of the committee that our Society invite, from time to time, all recently admitted lawyers of Jewish faith to a special luncheon meeting to offer the aid of its facilities in their quest for employment, if same is sought; and that the Employment and Placement Committee in conjunction with our Membership Committee continue to circularize The Decalogue Society, to advise it of pending application in its files for posts in law offices.

Chayes Counsel for Voice of America

Member Colonel Edward Chayes of Chicago was appointed, May 17, 1954, Assistant General Counsel of the United States Information Agency. He will serve as counsel for Voice of America. Colonel Chayes's offices are at 18th and Pennsylvania Avenue, N. W., Washington, D. C

Remedy for Corruption in Public Office

By BERNARD H. SOKOL

The average citizen, indignant over evidence of public corruption known to him, is frequently frustrated by the failure of other public officials to prosecute, and in those instances where prosecution is undertaken, by the ease with which some wrongs have gone unpunished. In the majority of cases the work of the grand jury and the active participation of the State's Attorney therein is the only method of enforcing sanctions against dishonesty in public office. There is, however, a weapon little used because it is little known, and little known because it is only discussed in the comparative seclusion of a law review.

In a recent article * Arthur Lenhoff poses the employment of the constructive trust as a remedy for official corruption. The suggestions advanced by the author deserve greater publicity.

Two significant cases are referred to—and while provocative, have apparently attracted little attention.

In the case of *City of Boston* v. *Santosuosso*, 30 N. E. (2d) 278, Curley, then Mayor of Boston, participated in the settlement of a claim against the City and insisted, as consideration for his consent to such settlement, to the payment to him of half of the settlement, which in the instance was $85,000.

The General Equipment Corporation had filed an action, sounding in tort, to recover against the City of Boston for damages to certain premises, which case pended for some time and in which no settlement was apparently possible. As a result of a personal conference had by Mayor Curley with an official of the company, Curley agreed to cause the City to pay $85,000, if he were given $40,000 of the proceeds. This was agreed to, and ultimately Santosuosso, as attorney for the company, participated in the settlement and the payment to Curley. The suit originally started was commenced in the name of the City of Boston to compel Santosuosso and Curley to account to and pay over to the City the sums which they had personally pocketed from the transaction. The record of the case, as cited, embraces in the Reporter some 25 pages, in each of which is a wealth of material attesting to the iniquities which gave rise to the action which was successfully prosecuted.

Another case with elements which have become, it seems almost commonplace, is *United States of America* v. *Carter*, 217 U. S. 286. A bill was brought seeking to compel the defendant Carter, lately a Captain in the United States Army, "to account for illicit gains, gratuities and profits received by him through collusion with contractors for river and harbor improvements in Savannah, Georgia," and to follow such profits into securities and other property held for him by other defendants in the suit. This case was successfully prosecuted by the United States, and the third parties who were not bona fide holders of the proceeds were forced to disgorge the "commissions."

As remarked by Mr. Lenhoff, the only strange thing about these cases is that they stand alone. Bogert, in his work on trusts, refers to them only as ordinary constructive trust cases!

An interesting question is whether such constructive trusts could be prayed for by a private citizen. However, there does not seem to be any reason, short of legislative prohibition, why a private citizen could not bring an action in equity for the imposition of a constructive trust upon those gains ill-gotten through the dishonesty of a public official. Such a procedure would have a number of advantages:

(1) The simple complaint in equity praying for relief would be all that would be needed to set the machinery of judicial process in motion.

(2) The defendant therein would not be entitled to a jury trial. As a consequence, the issue could be drawn with little procedural difficulty.

(3) There would appear to be sufficient leverage on the part of a court to throw out frivolous actions, unless such were supported by proper affidavits, and hearings thereon could be set without delay.

One may speculate that the maintenance of but one successful constructive trust action brought at the behest of a private citizen would have a salutary effect on those who would cor-

* "The Constructive Trust as a Remedy for Corruption in Public Office" Col. L. R. 54:2, p. 214, February, 1954.

rupt public office. The chief benefit to the public is the fact that there would be imposed against a State's Attorney of little courage or of less discipline, the leverage of a private action in the case of his refusal to process the matter before the grand jury.

Naturally, some abuse could be anticipated, but it would seem that a court could properly police the disposition of such matters so as to discourage frivolous actions and those brought for a dishonest purpose.

DECALOGUE OUTING JULY 15 AT CHEVY CHASE COUNTRY CLUB

The committee in charge of the Decalogue Society's annual outing at Chevy Chase Country Club July 15, is hard at work to complete arrangements for the entertainment of members, their families, and guests at the gala event. The Chevy Chase Country Club provides unusual facilities for play and relaxation—a swimming pool, gardens, playgrounds, and games in which womenfolk may also participate. The committee announces that it has enlisted Mrs. Harry A. Iseberg, wife of our past president, to assist in planning activities of interest to women. Mrs. Iseberg is enthusiastic about her role of "chief hostess" for the Big Day. Tickets are already on sale at Society headquarters, 180 West Washington Street. The cost of admission to the outing is $9.50.

"No other organization in Chicago and its environs," said Bernard H. Sokol, chairman of the affair, "offers so tremendous a value for an all day outing for so reasonable a price. It entitles one to golf, a swim, a door prize, dinner, and, in the evening, dancing to one of our city's outstanding orchestras. That and an opportunity to engage in your favorite sport—horseshoes, baseball or cards. Come early and bring your family, guests, and clients."

The Chevy Chase Country Club is located on Milwaukee Avenue, near Wheeling.

ALLEN D. DROPKIN

Member Allen D. Dropkin was appointed an assistant state's attorney of Cook County. A graduate of the University of Chicago, he was President of the University of Chicago Interfraternity Council in 1950.

Decalogue Society Sponsors Harvard-Israel Law Project

President Paul G. Annes announces that the Society has sent one thousand dollars raised as the initial contribution to Harvard University which, in collaboration with the Israeli Ministry of Justice, is engaged in the research project known as "The Harvard Law School—Israeli Cooperative Research for Israel's Legal Development." Ranking Israeli jurists and officials participate in this work at Harvard University. The Society's sponsorship of this enterprise came into being as a result of an address by Judge Harry M. Fisher, following which, our Board of Managers authorized our cooperation. Contributions to this cause are solicited from members of our Society and other lawyers.

Member State Senator Marshall Korshak is chairman of the Decalogue Committee in charge. The other members of this Committee are: Morris Alexander, Judge Harry M. Fisher, Jacob Shamberg, and President Paul G. Annes.

The importance of this undertaking was outlined by member Joseph Laufer in an article entitled, "Harvard and Israel," which appeared in the last issue of our Journal. The author states:

> . . . The significance of this new enterprise seems obvious. Sound economic and social development of Israel, whether it is to be achieved through private or public instrumentalities, depends on the just and wise ordering of relations among citizens and between citizens and the state. To promote this goal is the function of law and the administration of its far-sightedness on the part of the State of Israel to seek help in this difficult undertaking from the great University at Cambridge. It also demonstrates the broad intellectual imagination of the law professors of Harvard who turned this plan into reality. It is finally a tribute to the generosity and good will of a number of private American citizens who, by their contributions toward the cost of the program, have made its initiation and continuation possible.

L. LOUIS KARTON

Member of our Board of Managers, L. Louis Karton, head of the Appeals Division of the Chicago Corporation Counsel's office, was recently elected President of the Ner Tamid Congregation, 2754 West Rosemont Avenue.

Member Sydney R. Marowitz was elected First Vice-President.

A Lawyer on The Social Security Act

By JACK E. DWORK

SOCIAL SECURITY IN A NUTSHELL is the title of a recent book by our past president JACK E. DWORK. *It is sold in all Chicago bookstores at one dollar per copy. The Editor has asked Mr. Dwork, in advance of a review of the book in a near issue of the Journal, for his own version in a* NUTSHELL *of aspects of the Social Security Act of special interest to the lawyer.*

It is quite amazing that a considerable number of lawyers who otherwise pride themselves on keeping abreast of every new phase of the Law, are woefully uninformed on one of the most significant laws ever enacted by Congress —the Social Security Act. That perhaps is because up to this time lawyers have themselves been specifically excluded from the Act, and, thus they have been disinterested from a personal standpoint; but I wonder how many lawyers realize they may have neglected their client's interests in many cases because of their lack of knowledge on this subject. When a lawyer is handling an estate, there are many instances where the widow, or possibly widower, dependent children, or dependent parents, may be entitled to monthly benefits and lump sum payments. In some cases the executor or administrator of the estate is entitled to lump sum payments in reimbursement of funeral expenses. If the client is not aware of this, it is the lawyer's duty to inform him of his rights, and assist him in obtaining them.

Undoubtedly you have on many occasions been asked questions regarding Social Security by your clients, and if you were unable to answer them you were embarrassed and suffered a small decline in the regard of your client. A client does not expect his lawyer to know every aspect of every law, but a subject that is as pertinent as Social Security, currently covering 60 million individuals, should be of vital interest to every lawyer.

President Eisenhower has recently recommended that Congress enact legislation to bring lawyers and other presently exempted self-employed persons under the Social Security program. This may very likely be done in 1954. If a lawyer should come under the Act this year, as a self-employed person he would pay 3% of his earnings up to a maximum of $3,600, or $108.00 per year. Supposing that he and his wife are each now 60 years of age, in the five years before his retirement at age 65 he will have paid a total of $540.00. Under the table of normal life expectancy he would live to age 78, and his wife would live 2.3 years longer. For the $540.00 invested by him, they would have a combined potential return of $21,905.00. If he should die after having paid only $162.00 for the first year and a half after coming under the Act, his widow, from the time she reaches age 65 and during her full life expectancy would have a potential of $11,760.00 in benefits.

The lawyer who is employed by another lawyer, firm or corporation, either on a full or part time basis, has always been covered by Social Security and subject to the Act. Wives of lawyers, who either before or after their marriage acquired sufficient quarters of coverage under Social Security, will obtain the benefits of the Act, and in some cases their husbands, though never covered by the Act themselves, will receive retirement or survivor's benefits by reason of their wife's employment.

Recently the Illinois Bar Association made a poll of lawyers, requesting their opinions on whether they would want to be included under the Social Security Act. If lawyers realized how much the benefits have increased since the law was originally enacted, and appraised the true value of this protection, they would seriously consider acquainting themselves with this law, both as it affects their clients and as it will eventually affect themselves.

ARNOLD I. SHURE

Member Arnold I. Shure was elected for the twenty-first consecutive year as president of the Jewish Students Scholarship Fund, an Illinois not-for-profit corporation. This Fund allocates moneys to leading universities throughout the United States and to the Hebrew University in Israel to aid needy students.

DECALOGUE BAR TEST

Member Louis J. Nurenberg presents, at the invitation of the Editor, the following questions to challenge the "legal" memories of veteran lawyers. The answers, also by Nurenberg appear on page 13.

Decalogue members are invited to send us legal problems of interest, with solutions. No field of law is exempt and no State is barred. Please address Benjamin Weintroub, Editor, 82 West Washington Street, Chicago 2, Illinois.

Questions

1. A bank check was drawn in the following form.

   No. 1328

   National Bank of Chicago, Illinois

   Chicago, Illinois January 5, 1953

   Pay to the order of.....

   $200.00 Two hundred and no/00....Dollars

   John Smith.

   John Smith delivered this note to John Jones who promised to deliver certain merchandise in consideration thereof. Jones cashed the above check with the Acme Currency Exchange. Smith refused to pay on the ground that Jones had not delivered the merchandise as agreed. The Acme Currency Exchange brings action on the above check stating that this defense was not valid because it was a holder in due course. What decision?

2. Plaintiff made an oral agreement with defendant a Chicago, Illinois corporation, said agreement being made in Pennsylvania on March 15, 1952, by which the defendant corporation agreed to employ plaintiff for one year beginning July 1, 1952 at a salary of $5,000 per year. Under Pennsylvania law such a contract is not within the Statute of Frauds, but under Illinois law it is. Plaintiff was discharged after one month of employment in Illinois without cause and brings suit in Illinois. Defendant has offices in various states and it was not specified in which state plaintiff's work was to be done. What decision? Would your decision be the same if all work was to be done in Illinois?

3. George Brown married Jane in Mexico without telling her that his previous marriage had not been dissolved. They moved to Texas, then to Cuba, then to New York, during which time they had several children. Jane, later, went to relatives in Illinois, while George went to Nevada to search for a job. In Nevada, George obtained a divorce from his first wife, and then sent for Jane, who knew nothing of this. They lived together as husband and wife in Nevada, where common law marriage is valid, for a month, and then failing to obtain a job, George went to Illinois, together with Jane where common law marriage is not valid, and remained there for the rest of his life. At his death his son by his first marriage claimed that George's children by Jane were illegitimate because there never had been a valid marriage between George and Jane. What decision?

4. A coal company mined coal on its property adjacent to that of the plaintiff in such a manner that insufficient support for plaintiff's land remained and there followed a subsidence of the land. Plaintiff sued and the defense was the Statute of Limitations. Plaintiff replied that such defense was improper because the statutory period had not run from the time of the subsidence. What ruling?

YOUR PORTRAIT FREE AT ESQUIRE STUDIO

More than one hundred and twenty five members of our Society have already had their portrait taken free, at the Esquire Studio at 20 West Jackson Boulevard. The arrangement to commission the Esquire Studio to take photos of members, at no cost, was authorized by our Board of Managers who decided to establish and maintain at our offices a membership album. There are frequently occasions when there is need for reference, information, pictures for the press, and publicity purposes.

To arrange for a seating at your convenience, phone HArrison 7-7875.

La Salle Street Players and Probate Practice

By MAYNARD WISHNER

Chairman, Decalogue Legal Education Committee

"Something different in legal education" was promised by the Society's Legal Education Committee as part of the Probate Practice Clinic which began at a Friday luncheon on April 2. The La Salle Street Players dramatized a court room version of proceedings in a *Citation to Discover Assets, In Re: The Estate of Horace Morse Corpus, Deceased,* and led off the clinic on a note of gaiety coupled with high purpose. Some thirty two points of law together with citations were woven through the one hour presentation. The script was prepared by member Nat M. Kahn who impersonated one of the contesting attorneys opposite William J. Lunn. The not so somber court room was appropriately presided over by member George M. Schatz, First Assistant to the Probate Judge. The array of court attaches and witnesses included Helen W. Munsert, C. Edward Doblin, Thomas S. Edmonds, Miss E. Frances Fox, Harold A. Cantore, Harold R. Corwin and member Maurice J. Levy. Named a "how show" by its sponsors, the presentation marked a unique approach in combining good humor with legal education attested to by the enthusiastic response by the audience and invitations for performances elsewhere.

The more formal clinic sessions began on Thursday April 15, with the first two of a series of lectures and discussions on "Practical Problem in Probate Procedure." Elmer Gertz reviewed problems involved in "Opening the Estate" and Nat M. Kahn, fresh from his dramatic triumph with the La Salle Street Players expatiated on the subject of "Claims."

BEN ARONIN

The Chicago Board of Jewish Education is currently exhibiting in honor of member Ben Aronin's fiftieth birthday, the original manuscripts of Aronin's works, his books, plays, and his many other notable contributions in the realm of religious art, drama and fiction.

APPLICATIONS FOR MEMBERSHIP

MAX A. REINSTEIN, *Chairman*

APPLICANTS	*SPONSORS*
Joseph H. Albaum	Elmer Gertz
Neal S. Breskin	Bernard H. Sokol and Jack B. Rubin
Arnold F. Brookstone	Michael M. Mitchel and Morris A. Haft
Bruce E. Clorfene	Bernard H. Sokol and Irwin Clorfene
Max L. Feinberg	Benjamin Weintroub and Nathan Goldberg
Lawrence Jacobs	Harry D. Cohen
Maurice Liebman	Benjamin Weintroub and Elmer Gertz
Mary Gerber Oppenheim	Benjamin Weintroub and Marshall Korshak
Julian M. Kaplin	Bernard H. Sokol
Marvin Levin	Alex M. Berk and Irwen Gilbert
Irving Meyers	Oscar M. Nudelman
Isaac B. Shapiro	Benjamin Weintroub and Elmer Gertz
Bert Edward Sommers	Bernard H. Sokol
Robert L. Weiss	Saul J. Moss
Selwyn Zun	Benjamin Weintroub and Paul G. Annes

ELECTED TO MEMBERSHIP

Bernard Beller	Bernard Katz
Martin Faier	Austin T. Klein
Joseph H. Fink	Marvin L. Koenigsberg
Sam F. Fink	Charles Pressman
Earl A. Glick	Charles C. Schy
Seymour S. Guthman	Marvin P. Shore
	Matthew Steinberg

HONOR SOLICITOR GENERAL OF THE UNITED STATES

Member Judge Julius H. Miner presided at a dinner April 11, in honor of past presidents of the Chicago Council of the American Jewish Congress. The principal speaker for the occasion was the Hon. Simon E. Sobeloff, Solicitor General of the United States, and former Chief Justice of the Maryland Court of Appeals. Members Paul G. Annes, Leo H. Lowitz, Max A. Kopstein, and Judge Harry M. Fisher were active in arranging this affair.

Past President of our Society David F. Silverzweig is President of the Chicago Council of the American Jewish Congress.

Oppose Keating Bill

The Board of Managers of our Society approved a recommendation of our Judiciary Committee advising opposition to the Keating Bill (H. R. 489) now pending in the U. S. Congress, which provides that:

> "No justice or judge of the United States shall testify as to the character or reputation of any person in any action in any court of the United States."

It is the opinion of The Decalogue Judiciary Committee, Reuben S. Flacks chairman reports, that the propriety of a judge's voluntary appearance as a character witness for one accused of crime should be a matter for the judge's personal discretion. Where thru intimate personal experience and contact he is acquainted with characteristics not familiar to others, he might do so in a court where he did not sit. But where he is called primarily to give the defendant the advantage and undue weight of the prestige attached to the judicial position, and to influence a jury in a manner to which the defendant is not entitled, the judge should ask to be excused.

With respect to the proposed amendment of the Judicial Article of the Illinois Constitution, the Committee decided to await the new draft which is now under preparation by the Illinois State Bar and the Chicago Bar Association committees.

DE PAUL UNIVERSITY INSTITUTE ON FEDERAL TAXATION

Several members of The Decalogue Society participated in the De Paul University Second Federal Taxation Institute. The Institute was planned as a seminar for lawyers, accountants, and business executives on the Federal taxation aspects of business transactions and continued from April 28 to April 30. Members of our Society who took part in the proceedings were: David Altman, Paul G. Annes, Benjamin M. Becker and George L. Weisbard.

Mr. Becker is executive director of the Institute.

GEORGE M. SCHATZ

Member of our Board of Managers George M. Schatz, First Assistant to the Probate Judge Cook County since 1947, resigned his post and is now in the general practice of law. His offices are at 19 South LaSalle Street. Telephone, FRanklin 2-4388.

Answers—Decalogue Bar Test

1. Judgment for Defendant. The "check" was not a negotiable instrument because an instrument is not a check if it does not appear from the face to whom it is payable. Since the above instrument was not negotiable, plaintiff took subject to all valid defenses and therefore the defense of non-delivery of merchandise is effective. 273 Illinois Appellate 294, 391 Illinois 565.

2. Judgment for Plaintiff. Where a contract is executed in one state with the intention that it be performed in another, and the states are governed by different laws, the burden of proof is on the party asserting that the agreement is within the Statute of Frauds to show that the agreement was intended to be performed in Illinois. Otherwise it will be presumed that the law of the place where the contract is made applies.

   (b) No. If the contract had been proved to require all work to be done in Illinois, then the Illinois Statute of Frauds would apply, and then decision would be for defendant, because then the law of the state in which the work is to be performed prevails. 388 Illinois 474.

3. The marriage between George and Jane was a valid common law marriage because the law of their domicile, Nevada, regarded it as such. They had established domicile in Nevada and it was not their intention to return to Illinois until George failed to find employment. This marital status established in Nevada is recognized in Illinois, and George's recognition of the children born to Jane as his own rendered them legitimate. 379 Illinois 185.

4. Judgment for plaintiff. The statute runs from the time of subsidence and not from the period of mining. It might well be that the jury might find no damages which might afterwards occur or in other cases find prospective damages which in point of fact never might arise. 245 Ill. App. 113 Treece v. Southern Gem Coal Corp.

BOOK REVIEWS

Politics and the Constitution in the History of the United States, by William Winslow Crosskey. Chicago: University of Chicago Press, 1953, Vols. I, II, 1410 pp.

SAMUEL D. GOLDEN

Member Sam D. Golden is on the legal staff of Argonne National Laboratory, operated by University of Chicago under contract with the U. S. Atomic Energy Commission.

To write a work of this magnitude on the original meaning of the United States Constitution at this late date might seem to many, as the author of the book acknowledges, "merely a threshing of old straw . . ." but the startling view of the Constitution portrayed here, which is based upon the most comprehensive research into materials contemporary to the formation of our Government, should dispel all doubts that this book is of great current interest. In this review, it is impossible to convey any satisfactory impression of the historical evidence and arguments so skillfully and voluminously set forth in this book. However, because Crosskey's conclusions are so provocative, we shall discuss a few of them.

Professor Crosskey charges that the historians and the United States Supreme Court have misunderstood the basic structure of government that the Framers of the Constitution intended to establish. Contrary to the prevailing view, Crosskey insists, the Constitution does not contain any doctrine of a limited Federal Government and strong residual state governments. Instead, it postulates a National Government of very broad general governing powers, and relegates the states to a subordinate and limited role.

Crosskey's method is to turn to the actual language of the Constitution, and analyze it in terms of the historical context in which it was written. To accomplish this, the author develops what he calls "a specialized dictionary of the 18th century word-usages, and political and legal ideas, which are needed for a true understanding of the Constitution. . . ." Considered in this light, the Constitution is revealed as a logical declaration of a simple and consistent form of government. For example, the Preamble, which is often explained away as mere "verbal flourish" becomes instead a comprehensive statement of the purposes to which the National Government was to be devoted. Under the rules of interpretation, of the 18th century, the Preamble would have been considered of the highest significance in the interpretation of the entire document. As Crosskey reads the Preamble, each term has significance, thus:

(1) "We the People of the United States," confirms Crosskey's thesis that it is the people of the states, rather than the state *governments,* who were the intended units of the new national government;

(2) "in order to form a more perfect Union," indicates the desire of the Constitutional Convention to create a fully unified nation instead of the loosely joined confederation of separate sovereignties that previously existed;

(3) The phrases "establish Justice, insure domestic Tranquility, provide for the common Defense, promote the general Welfare," encompassed *all of the known objects of government,* and were intended to confirm that the National Government had full authority to promote each of these objects; and

(4) The closing words "and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America" disclose the Framers' belief that the entire structure of Government created by the Constitution would secure liberty to the people of the country.

The broad objectives of the Preamble were carried forward in the succeeding parts of the constitution. Under Section 8 of Article I, Congress became the agency of the Government for the promotion of welfare and the common defense, two of the objects stated in the Preamble. The first paragraph of Section 8 states: "The Congress shall have power to lay and collect Taxes, Duties, Imports and Excises, to pay the Debts and *provide for the common Defense and general Welfare of the United States;* but all Duties, Imports and Excises shall be uniform throughout the United States. . . ." (Reviewer's italics.) Crosskey refutes the traditional view that this paragraph applied only to tax legislation, showing that the tax and payment-of-debts powers were emphasized only because of urgent political considerations then facing the nation.

Contrary to the accepted view that the enumeration of specific powers in Section 8 limited the generality of the powers given, Crosskey analyzes each enumerated power and explains why the Convention felt obliged especially to mention it. Some of these powers, it appears, were listed to make sure they would be *legislative* rather than *executive* powers, in view of strong English precedent which granted them to the King. Other powers were included because they were listed in the Articles of Confederation, and the Convention wanted to leave no doubt that these older powers were also granted to the new Government. The bankruptcy and naturalization powers were specified because the statement of them would limit Congress' otherwise general powers to legislate in these fields. And, finally, certain powers were named because of the unusual popular support for having these particular powers specifically set forth in the national charter.

In addition, the so-called "necessary and proper clause" at the end of the section, which Crosskey says was once called the "sweeping" clause, was intended to make doubly or triply sure that the enumeration of certain special powers in Section 8 was not intended to limit the generality of the powers granted in the Constitution to Congress.

A commonly held historical argument cites the Tenth

Amendment as proof of the limited character of the National Government. Crosskey reviews this Amendment and finds its meaning to be that the states would continue as governing organizations, and could legislate on any matters which were not vested exclusively in Congress by the Constitution. Those matters not vested *exclusively* in Congress, were nevertheless within Congress' powers. Therefore, there is a wide area of concurrent jurisdiction in which both Congress and the state legislatures may act, but in which any national law is nevertheless supreme.

Crosskey devotes particular attention to the Commerce Clause, which grants Congress powers ". . . to regulate Commerce with foreign Nations, and among the several states, and with the Indian Tribes. . . ." Reading each of the key terms of this clause as they would have been understood by an intelligent, well-informed person of the late eighteenth century yields startling results: the term "regulate," includes both the restricting and fostering of private enterprises; "commerce" means every kind of business and other economic activities; "among" means not "between" but "within;" and "states" was a collective noun referring to the *people* of the states. Taken as a whole, the Commerce Clause, then, simply declared that *Congress can regulate all business matters and other economic activities that take place within the country.* This is a far cry from the "Interstate Commerce" theory maintained by the Supreme Court. Incidentally, Crosskey explains the reason for especially enumerating the Commerce Clause as being the great desire on the part of the people of the new country, to have a uniform system for the registration of all economic affairs in the National Government, in lieu of the confused, disharmonious condition of trade regulation and commercial law in the various states.

In addition to his conclusions with respect to congressional power, Crosskey makes similar far-reaching findings concerning the proper role of the judiciary in the Government. The Judicial Power was created to "establish Justice," another object stated in the Preamble. Interpreting the Judicial Article (Article III) and the supremacy Clause of Article VI, the author asserts that the Supreme Court was to have complete and final jurisdiction over all law in the country. It was expected that the Supreme Court in deciding cases brought to it, would apply general common law and would rectify any decisions of state courts which did not conform with its own interpretations of the common law. Instead of bowing to the state courts in interpreting state law, as the Supreme Court presently does under the doctrine of *Erie Railroad Co.* v. *Tompkins,* 304 U. S. 64, the Court would require the state courts to conform with its determinations, thereby substituting one rule of the law for the various rules of the states.

On the other hand, the author maintains that the Supreme Court erred in arrogating to itself the power to declare statutes of Congress unconstitutional. The three branches of the National Government were intended to be coordinate and no one of them could appropriate the functions of another. The only extent to which the Court could refuse to apply a statute of Congress would be when that law purported to infringe upon powers granted to the Judiciary by the Constitution.

In the field of executive power—"domestic Tranquility" in the Preamble—Crosskey feels the Constitution has been interpreted properly to grant broad general executive powers.

Whether or not one agrees with the conclusions expressed in this book, one cannot deny that it is a magnificent job of interpreting a document, employing the best skills of the lawyer. Mr. Crosskey's method of analysis is very instructive in itself and cannot help but evoke admiration for the breadth of his efforts, the patience of his more than thirteen continuous years of historical research, and the remarkable way in which he has organized the fruits of his research into a single unified work.

The significance of the book, however, lies in the field of policy. The simplified and sensible view of the Constitution portrayed here is manifestly well-fitted to our current needs in government. We need only reflect upon the constant confusion that has existed from the federal-state dichotomy in such matters as economic regulation. The question of whether there is or is not federal jurisdiction in particular cases has plagued litigants, administrators, and the courts for many years and with increasing, not decreasing intensity. Although the "states rights" adherents will be noisy in their rejection of Crosskey's thesis, it seems well to note that even under the "interstate commerce" theory, almost all the principal businesses of the country are subject to Federal regulation. Therefore, the actual effect of an acknowledgment of a general congressional power to regulate economic affairs would be much less significant in terms of the centralization of powers than one might at first expect. But the benefits in eliminating the confusion inherent under the present system of divided government would be enormous.

In the less controversial field of commercial law, Crosskey's views would make possible what 50 years of the Uniform Laws movement have been totally unable to do. By one act of Congress, the law of commercial practices could be completely unified for the entire country, and the Supreme Court's final review of all commercial matters would assure uniform interpretation of this law. The advantages to the business community would seem to be very great, since the differences in the commercial law of different states are largely arbitrary and unjustified. Instead of the present 48 corporation laws, a single law of corporations could be created to provide uniform and effective regulation of corporate structure.

Outside of the direct sphere of economic regulation, the possibility that Congress would pass a national divorce code would be welcomed by the many people who object to the present complexity and lack of harmony in divorce law. In the field of what the Preamble calls "domestic tranquility," a fuller recognition of Federal power and responsibility to preserve

order within the country would do much to meet the threat of syndicate racketeering. In general, our Government would change from one of exceeding complexity and confusion to one of straightforwardness and simplicity. Of course, a great many people in the course of our history and continuing to the present, have been concerned about the dangers of having a strong central government. These dangers, Crosskey states, are ameliorated by the checks and balances established by the Constitution itself, such as the sharp division of functions between the three branches of government and the two Houses of Congress.

There are many people who would fear the withdrawal of the Supreme Court from the constitutional review of general congressional action. In this regard a few observations might be in order. In the first place, the volume of court review over the constitutionality of *national* legislation is exceedingly small (Crosskey finds direct support for the review of *state* legislation and state constitution in the Supremacy Clause of the National Constitution.) Secondly, there is little guarantee for the people that the appointed judges of the Supreme Court will be more "democratic" or anti-autocratic than are the elected representatives of the people. It is also this reviewer's opinion that the recognition of a strong national government would evoke greater interest in the election of senators and representatives and would interest many more qualified men in running for such offices. It is noteworthy that Great Britain has fully recognized the supremacy of its Parliament in all matters of legislation, with no court review of constitutionality. It can hardly be said that the English are the less democratic for denying judicial review.

As will be evident from these comments, this book is certain to provoke a great deal of controversy. There are already a number of clashing opinions of Professor Crosskey by persons who have read or are familiar with his work. The work almost inevitably produces a strong positive or negative response in the reader. Besides the controversial nature of his views, the self-assuredness with which he states his conclusions and his many personal prejudices practically assure that the reader's blood pressure will go up either in sympathy with or in rejection of the author's contentions.

Historians understandably do not take well to Mr. Crosskey's severe criticism of them. They characterize this book as a "lawyer's brief" rather than a solemn book of history. Nevertheless, Crosskey has decisively challenged the traditional historians, and the only way they can satisfactorily answer his challenge—if at all—is by pursuing the sort of assiduous research that he undertook in the preparation of these volumes. And the historians would do well to commence their work early, since Crosskey has announced that he is writing additional volumes which will present additional historical material to support his views. The only *indifference* that might be expressed toward Crosskey's work is the impression that all of this is an idle pursuit, since the prevailing interpretations of the Constitution are well settled by the Supreme Court. But we have witnessed several dramatic reversals by the Court of its constitutional doctrines. More than one of the reversals can be traced to the combined effects of new historical research and new practical needs in government. Crosskey's researches and the strong need for reduced complexity in law and government may spark an eventual change in our basic theory of constitutional powers.

But We Were Born Free, by Elmer Davis. Bobbs-Merrill Publishers, Inc. 229 pp. $2.75.

Reviewed by JOSEPH L. NELLIS

Here is the voice of one of the great proponents of American democracy. His words, his views, his almost unarguable and unassailable evidence of the decay in our political moral fibre are worth not only reading but remembering. Davis, the recipient of the Peabody Award (thrice), the Overseas Press Club Award and numbers of other great honors is a man of great religious fervor. His religion has best been stated by E. B. White in the *New Yorker* Magazine as "the secular religion that unifies America—faith in freedom, in self-government, in democracy," and this book is the best exposition of his religious faith that has yet appeared.

Davis is more than a fighter for America's traditional freedoms. He is a scholar and a student of government and politics from whom constitutional lawyers, laymen and other citizens may obtain fundamental food for thought on how to preserve and protect the Constitution in these days.

The book proceeds upon the theory that a vast majority of Americans do not want a society of the type described in George Orwell's *1984*. His theory is that we want to continue in the democratic traditions that have made our country great. The author vigorously attacks encroachments upon our traditional liberties by "runaway" investigators and others and he gives us not only the *meaning* of these encroachments in terms of our traditional liberties, but the *means* of resisting them. Let Davis speak for himself on this point:

> The first and great commandment is, don't let them scare you. For the men who are trying to do this to us are scared themselves. They are afraid that what they think will not stand critical examination; they are afraid that the principles on which this republic was founded and has been conducted are wrong. They will tell you that there is a hazard in the freedom of the mind. In trying to think right you run the risk of thinking wrong. But there is no hazard at all, no uncertainty, in letting somebody else tell you what to think; that is sheer damnation. (p. 113)

The last part of this profound work is a series of essays on the very real connection between current efforts to whittle down our constitutional guarantees and the formal moves

being taken by some to make these curtailments the law of the land. His discourse on the Bricker amendment and its relation to freedom of thought is a priceless statement of principle and reason. His chapter on "News and the Whole Truth" takes the reader behind the scenes to explain the background for events whose course has often puzzled the average newspaper reader. His analysis of the motives and behavior of the "professional ex-communists" is worthy of the reader's close attention since his words are not in the nature of "attack without constructive remedy;" rather he poses the questions and gives a valid response to both sides of the questions.

Davis has performed brilliantly in this book. It ought to be required reading for every thoughtful American who is deeply disturbed about his daily newspaper headlines.

They Escaped The Hangman, by Francis X. Busch. Bobbs Merrill Publishers, Inc. 301 pp. $3.75.

Reviewed by BERNARD H. SOKOL

This book is another in a series of Notable American Trials, published by Bobbs Merrill, and while it differs in some few particulars, follows the format presented in the previous books entitled *Prisoners At The Bar* and *Guilty Or Not Guilty?,* also by the same author.

This is a non-technical account of four important American criminal trials selected for presentation by the eminent Chicago trial lawyer because, for one reason of another, the defendants in each case escaped the finding of guilty, although the evidence against them pointed definitely toward guilt.

Here is an account of the trials growing out of the assassination of Governor William Goebel of Kentucky, the Rice-Patrick case which involved the trial of Attorney Albert T. Patrick for the murder of the millionaire Rice, the trial of Frances Hall and her brothers for the murder of Eleanor Mills, and last, the local trial of Hans Max Haupt for treason.

There are many reasons why a book such as this deserves a large audience. Although it partakes of the sensational and frequently derives some of its principal interest from maudlin sentiment, it is as much a presentation of American history as any work by conventional historians. The true, isolated emotional crime, makes no contribution to the contemporary scene. It may reflect a wholesome contempt for the sanctity of human existence or may present avarice in the extreme as a sociological fact, but its account is not important. One may except, too, the reflection of peculiar sociological factors which would permit and even encourage the exploitation of murderesses on the public stage as occurred a number of years ago in the City of Chicago. In these accounts prepared by Mr. Busch the trials themselves are historically important.

One comparison ought to be made, since there is in style and in content a most interesting contrast between this book and a book published not too many years ago by Charles Scribners Sons and authored by Edgar Lustgarten. This latter book, entitled *Defender's Triumph,* is also a book about four important trials, in each of which the prisoner was acquitted. In the book by Lustgarten there is a masterful analysis presented of four cases in which, although guilt appeared to be definite, the rescue was accomplished through the mastery and skill of the attorney for the defense. In Mr. Busch's book, while in each case defense counsel were unquestionably of singular competence, the acquittals derived from a number of other reasons, in one case from what appeared to be almost deliberate negligence by investigating officers, in another, by the political climate, and so on.

These books, and this would include the books previously written by Mr. Busch, are happily the kind that one can read and reread, and should be a welcome addition to one's library.

COVENANT CLUB ELECTS

The following members of our Society were elected to office at the last annual meeting of the Covenant Club of Illinois:

Samuel J. Baskin, President.
Philip H. Mitchel, Second Vice-President.
Nathan Schwartz, Secretary.
George L. Weisbard, Assistant-Treasurer.
Norman Becker, Financial Secretary.
Bernard Epstein, Member of the Board.
Benjamin Weintroub, Member of the Board.

DECALOGUE LIBRARY

Louis J. Nurenberg chairman of our Library and House Committee, reports that during the past year we have added to our Library, Federal reports and digests so that now the Society has a working library for matters involving U. S. Law, as well as Illinois Law.

The members are reminded that the Library facilities of the Society are available daily, except Saturday and Sunday, from 9:00 A.M. to 5:00 P.M.

Personal Names as Trade-Marks

By FRANK H. MARKS

The long established common law rule provided that personal names (as well as geographic names and descriptive words) were incapable of functioning as "technical" trade-marks. This rule was codified in the Trade-Mark Act of February 20, 1905, Section 5:

> ". . . Provided, that no mark which consists merely in the name of an individual . . . not written, printed, impressed, or woven in some particular or distinctive manner, or in association with a portrait of the individual . . . shall be registered under the terms of this Act."

As administered by the Patent Office, this section was considered to apply to a full name such as JOHN JONES, JOHN C. JONES, or J. C. JONES, and also to a family name or surname alone, such as JONES. If an application was filed to register a certain word, the Patent Office as standard procedure would check the telephone directories of major cities and, if that word could be found listed in any such directory, the mark was refused registration on the ground that it was a "name of an individual" and, accordingly, prohibited by Sec. 5 from registration.

The above mentioned common law rule became outmoded in business practice long before the replacement of the 1905 Act with the "Lanham Act," the Trade Mark Act of 1946. Furthermore, the above described Patent Office procedure was recognized by trade-mark lawyers as artificial and illogical. As leaders in this field in and out of the Patent Office pointed out to the Congressional committees in hearings preliminary to enactment of the Lanham Act, it was silly to refuse registration of a word trade-mark merely because someone somewhere happened to have that combination of letters as a surname—obviously, almost any imaginable combination of letters could be found as a family name somewhere in the world.

The 1946 Act accordingly revised this section, substituting therefore the following as Sec. 2 of the new Act:

> "Sec. 2. Trade-marks registrable on the Principal Register. No trade-mark by which the goods of the applicant may be distinguished from the goods of others shall be refused registration on the Principal Register on account of its nature unless it. . . .
> (e) Consists of a mark which . . . (3) is primarily merely a surname."

It would seem, in the light of the history of the 1905 Act and the hearings preliminary to the 1946 Act, that there would be no question as to the meaning of the new name provision. It was stated plainly enough in one of the hearings by Edward S. Rogers, then dean of trade-mark lawyers in this country, after considerable discussion of the phrase, "primarily merely a surname" and after consideration of various alternative expressions, that the word "primarily" was intended to indicate a name like JOHNSON, which is a clearly recognized family name and has no other meaning, as distinguished from words like SINGER, SNOW, COTTON, KING, etc., which words, while often used as family names, nevertheless also have a dictionary meaning. The word "merely" came in for little or no discussion, doubtless because the word has a clear dictionary meaning, viz., *only, exclusively* or *nothing else but.*

Summarizing, it would seem apparent from the legislative history that, in selecting the term, "primarily merely a surname," the Congress intended to bar from registration only a word trade-mark the principal significance of which is a surname and nothing else but a surname, such as JONES or JOHNSON.

Nevertheless, almost immediately after the new law went into effect the Patent Office found great difficulty in administering this Section. Apparently reading Sec. 2(e)(3) of the new Act as a rewrite of Sec. 5 of the former law, the Patent Office proceeded to refuse registration of trade-marks consisting of full names, such as JOHN JONES or JOHN C. JONES, as well as marks which consisted exclusively of a well recognized family name, such as JONES. Thus, this writer was refused registration of the mark DAVID BRADLEY on the alleged ground that it was "primarily merely a surname." This procedure continued until an applicant for registration of the trade-mark ANDRE DALLIOUX appealed to the Commissioner from the refusal to register this mark.

In a decision which has now acquired historical status, Assistant Commissioner Daniels, in *Ex parte Dallioux,* 83 USPQ 262, reversed the Examiner and pointed out his error in apparently construing the new law as a reenactment of the 1905 Act, stating at page 263:

> "To refuse registration of the mark as shown in the drawing would be in effect to continue the rule of the Act of 1905, even though the prohibition against registration of a mark consisting of the name of an individual (which included surnames but was not restricted thereto), no longer remains in the law."

Unfortunately, as sometimes happens in judicial utterances, although we think Mr. Daniels' conclusion was correct, an error crept into his discussion—he said more than was required to reach his result, particularly in the following language at page 262:

> "To state . . . that the entire mark presented, 'ANDRE DALLIOUX,' is 'merely a surname' is a contradiction, since it comprises the entire name of an individual."

The error in this comment of Mr. Daniels lies in the assumption that the mark was 'the entire name of an individual." The fact clearly appears from the record that the applicant's name was *Andre Julien Dallioux.* This matter becomes of considerable significance when it is noted from the Congressional committee hearing reports that at one time the committee considered using the language "full name" as a requirement for

registration and discarded it. It was never intended by the Congress that a name mark should be barred from registration unless it consisted of a complete name.

Thus, we have the basically important *Dallioux* decision, the first to interpret the section in question, resting on a fallacy which was unnecessary to the result. Mr. Daniels could just as well have stated that "ANDRE DALLIOUX" was more than a surname and let it go at that. Thus is the way innocently paved for bad law even when the right conclusion is reached.

Following the *Dallioux* case confusion became more confounded in the Patent Office and in its appellate tribunals. The Patent Office promptly adopted the policy of granting registration of marks which *precisely* conformed to the pattern of that case, i.e., those consisting of a family name plus a full given name, e.g., JOHN JONES or JOHN C. JONES. Any deviation from that pattern, however, was refused, such as J. C. JONES or JONES-JOHNSON.

The matter was brought to an issue by this writer in connection with seventeen applications to register in as many classes the trade-mark J. C. HIGGINS, a mark which had been adopted by Sears, Roebuck and Co. in 1908 for sporting goods and had been extended to a wide line of items in that field. The uncompromising position of the Patent Office was that J C HIGGINS is "primarily merely a surname" and hence barred from registration by Sec. 2 (e) (3). We took the view that, while HIGGINS is unquestionably *primarily* and *merely* a surname, the entire mark J C HIGGINS is certainly more than a surname and, therefore, the mark is not "primarily merely a surname," considering the trade-mark as a whole and without dissection, as it should be under a basic rule of trade-mark law.

We took the question to the U. S. District Court for the District of Columbia by bill in equity under R. S. 4915 but that Court agreed with the Patent Office, as did the Court of Appeals, 204 F 2d 32, 96 USPQ 360.

In the meanwhile, the Patent Office had, for the same reason, refused registration of the notation KIMBERLEY CLARK, used by a corporation of that name for paper products. The Patent Office reasoned that two surnames are no more registrable than one, despite the applicant's argument that individuals are often christened with family names, such as MARSHALL FIELD, WOODROW WILSON, etc., and, therefore, if such an individual's name were registrable—as it would be under *Ex parte Dallioux*, it would be equally registrable if the name of a corporation. The applicant pursued the controversy by bill in equity under R. S. 4915 up to the Court of Appeals for the District of Columbia Circuit, but without success, the final decision being reported at 93 USPQ 191, 196 F 2d 772.

The same question was also presented in an application to register the mark, S. SEIDENBURG & CO'S., which was carried to the Court of Customs and Patent Appeals in *In re L. Lewis Cigar Mfg. Co.*, 98 USPQ 265, F 2d. Although affirming the Patent Office's view of the mark as "primarily merely a surname," the Court gave recognition to the confused state of the law interpreting Sec. 2 (e) (3), referring to the prior decisions of the Commissioner of Patents in the ANDRE DALLIOUX and J C HIGGINS cases in the following language:

> "It seems to us that the Patent Office, in the difficult task of fairly interpreting the involved section has adopted an inconsistent standard in its consideration of the two marks cited above. It would appear that had the reasoning in the Higgins case, namely, that "Higgins" constituted the dominant part of that mark, been consistently employed, then that reasoning, when applied to "Andre Dallioux," would necessarily have resulted in its rejection because "Dallioux" is, in our opinion, the dominant part of that mark.
>
> "Conversely, it seems to us that the initials in the Higgins mark should have received equal consideration to that given "Andre" in the Dallioux mark. We strongly doubt that Congress intended such a decisive distinction to be made between initials and given names in determining whether a mark is primarily merely a surname."

The Court further remarked (p. 267, 98 USPQ), in noting that it had asked for a rehearing directed solely to the question of Congressional intent, because

> "There was a substantial doubt in our minds as to exactly what Congress intended by the language employed in Sec. 2(e) . . . in our opinion, there was some degree of ambiguity in that section. . . . Despite able presentation by counsel, however, Congressional intent was not clearly established. Even if we would be justified in accepting the testimony of interested witnesses before the committee having charge of the involved legislation, here that testimony is inadequate."

(It might be noted parenthetically that the "interested witnesses" before the Congressional committee were the men who had drafted the section and Patent Office officials in charge of administering the trade-mark laws. Certainly, no one better qualified could have been found to testify to the meaning of the language.)

Further attention was given to this confused and ambiguous state of construction of Sec. 2 (e) (3) by Walter J. Derenberg, former Solicitor for the Commissioner of Patents for trade-marks, in an address on the Sixth Year of Administration of the Lanham Act, 98 USPQ No. 8, Pt. II. Referring to the "anomalous results" following from the decision of the Court of Appeals in the J C HIGGINS case, Mr. Derenberg considered it

> "incongruous and unjustifiable to permit registration without reliance on Section 2 (f) of such common names as "Paul Jones" or "Robert Smith" while, at the same time, permitting registration under Section 2 (f) * only of such much more

* Sec. 2(f) provides for registration on the Principal Register of names barred from that register by Sec. 2(e), provided a showing is made, as by affidavit, that the mark has acquired "distinctiveness," i.e., secondary meaning, through use by the applicant. Registration under this section is considered by some trade-mark lawyers, including myself, as second best—to be accepted only if registration cannot be obtained without recourse to this section.

> arbitrary and distinctive combinations of surnames as, for instance, "Kimberley-Clark" and innumerable others. It has already become aparent that the statutory language, 'primarily merely a surname' has been rather unfortunate. . . ."

In view of the published recognition of this "anomalous," "ambiguous," "inconsistent," "incongruous and unjustifiable" situation, we felt that it should be considered by the Supreme Court with a view to establishing a definite, clear-cut meaning to Sec. 2 (e) (3) and one which would be consistent with the plain dictionary meaning of the language, with the historical background of the 1905 and 1946 Acts, including what was said in the Committee Hearings and, especially, with the avowed intent of the Congress "to make it (the trade-mark law) stronger and more liberal, to dispense with mere technical prohibitions and arbitrary provisions."

Petition for certiorari was accordingly taken to the Supreme Court in the J C HIGGINS case. It was denied, *Sears, Roebuck and Co. v. Watson, Commissioner of Patents*, 98 L. ed. 44.

This denial of certiorari, as might have been expected, seems to have paved the way for further confusion. Mr. Daniels, in deciding that ANDRE DALLIOUX ought to be registered, remarked that the appealed refusal to register constituted a continuation of the practice under the 1905 Act, even though that law had been superseded by the 1946 Act. Yet, on October 8, 1953, we find the newly appointed Assistant Commissioner remarking in *Carafiol-Silverman Co. v. Julette Originals*, 99 USPQ 142, 143:

> "It is extremely doubtful that a mark composed of a first name and surname, whether fictitious or real, is registrable in the absence of proof of distinctiveness. Ex parte I. Lewis Cigar Mfg. Co., 98 USPQ 265 (CCPA)."

The official goes on to emphasize her point by stating that such names should be registered "only after convincing evidence of the applicant's rights is submitted under the provisions of Sec. 2(f)," and proceeds to hold unregistrable the mark, "PAULA DEAN ORIGINALS."

In view of this situation, clarifying legislation is badly needed. Because the CCPA expressed the obvious, 98 USPQ 266, that the Patent Office had been inconsistent in the J C HIGGINS and ANDRE DALLIOUX cases, that remark is apparently considered a mandate to revert to the original practice, denounced by Daniels, of reading Sec. 2 (e) (3) as if it were a rewrite of the corresponding section of the superseded 1905 Act, despite the marked difference in verbiage. I agree with Daniels that, if Congress had intended to re-enact the old law, it would have used identical language. In any event, without further delay—there have already been nearly seven years of confusion—Congress should state concisely what is intended with regard to registration of personal names.

Crosskey at Election Meeting

Professor William Winslow Crosskey of the University of Chicago Law School, author of the recent monumental work, *Politics and the Constitution in the History of the United States,* (reviewed in this issue by Samuel D. Golden) was the principal speaker at the Decalogue Annual Election meeting May 21, at noon, in the Covenant Club. Professor Crosskey's subject was, "A Wall Street Lawyer Looks At The Constitution."

JEWISH COMMUNITY COUNCIL

Because of a constantly growing need to coordinate and, in some instances, to give direction to communal efforts dealing with various problems of Jewish interest in this city, President Paul G. Annes appointed a special committee to concern itself with organizing in Chicago a Jewish Community Council with this objective in mind. The committee will shortly call a meeting of the heads of principal Jewish organizations here.

MAXWELL ABBELL

Member Maxwell Abbell long a communal and civic leader in this city and in Middlewest is the recipient of an honorary degree for services to Judaism, from the Jewish Theological Seminary of America.

ABRAHAM MARGOLIS

Member Abraham Margolis long active in cultural affairs in Chicago is the founder of a newly established summer camp, Menorah, located about 40 miles northwest of Waukegan, Illinois. A not for-profit undertaking, camp Menorah will be conducted according to strict laws of Kashruth.

MAX L. REINSTEIN

The May issue of The Chicago Bar Association publication *The Chicago Bar Record* contains an article by Max L. Reinstein, member of our Board of Managers, on "Proposed Changes in the Internal Revenue Code affecting individuals."

International Bar Association Conference

The Fifth International Conference of the Legal Profession under the auspices of the International Bar Association will be held in Monte Carlo, Monaco, from July 19 to 24, 1954.

Aside from several receptions, dinners, parties, and other festive events arranged by the Monaco State for the visiting delegates, these symposiums led by outstanding members of the Bar of several countries, will take place at the Conference:

1. Taking Evidence Abroad by way of Documents or Testimony.
2. International Aspects of Nationalization.
3. Constitutional Structure of the United Nations, in the Light of the Proposed Amendatory Conference of 1955.
4. Economic Warfare, particularly the aspect relating to the restitution of private property which has been vested or blocked.
5. Extra-territorial Effects of Divorce and Separations.
6. Experience with Treaties to Avoid Double Taxation.
7. International Code of Ethics for Lawyers.

The Decalogue Society of Lawyers may, if it desires, send delegates to this conference. Members interested in attending this event should communicate with the Decalogue Society offices at 180 West Washington Street, Chicago 2, Illinois.

DECALOGUE DIARY AND DIRECTORY, FREE

Members who have failed to date, to get their 1954 Decalogue Diary-Directory, may still obtain a copy, free at our headquarters, 180 West Washington Street, Suite 302-303.

MEYER WEINBERG, AUTHOR

Bobbs-Merrill, Publishers, announces the publication of a book by member Meyer Weinberg; its title is *Illinois Divorce, Separate Maintenance and Annulment with Forms.* Price $15.00. A review of this volume will appear in an early issue of THE DECALOGUE JOURNAL.

The Editor will be glad to receive contributions of articles of modest length, from members of The Decalogue Society of Lawyers only, upon subjects of interest to the profession. Communications should be addressed to the Editor, Benjamin Weintroub, 82 West Washington Street, Chicago 2, Illinois.

BERKE ON THE OIL INDUSTRY

Member Samuel Berke, master in chancery Superior Court, Cook County, addressed our Society at a luncheon April 9, at the Covenant Club on "The Romance of the Oil Industry." Mr. Berke, long familiar from personal participation with the many problems in this industry, spoke at length on the legal and practical aspects of the oil business. Saul Epton is chairman of The Decalogue Forum Committee under whose auspices this meeting was held.

PAUL G. ANNES

President Paul Annes addressed our Society May 7, at a luncheon at the Covenant Club on "A First Look at the Pending Revenue Act."

ELECT DAVIDSON

Member Leonard H. Davidson was elected President of Anshe Emet Men's Club. Davidson is also Vice-President, Midwest Region National Federation of Jewish Men's Clubs.

F. E. P. C. PROGRESS

The State of Kansas by enacting an educational type of FEPC bill without enforcement powers (similar to that in effect in Wisconsin) has brought to twelve the number of states which have FEPC legislation on their statute books. Meanwhile FEPC legislation was introduced in ten other states—California, Delaware, Illinois, Michigan, Minnesota, Missouri, Nebraska, Ohio, Pennsylvania, and West Virginia. FEPC bills were killed in committee in Michigan and Nebraska, by inaction in Minnesota, passed the House but killed in the West Virginia Senate, passed the House and awaiting expected Senate approval in Ohio, and still pending in the remaining five states.

Return Postage Guaranteed

THE DECALOGUE JOURNAL

A Publication of The Decalogue Society of Lawyers

180 WEST WASHINGTON STREET
CHICAGO 2, ILLINOIS

Sec. 34.66 P.L.&R.
U. S. Postage
PAID
Permit No. 4708
Chicago, Ill.

Lawyers Division, Combined Jewish Appeal Dinner, June 17

Max Lerner, Professor of American Civilization at Brandeis University, widely known lecturer, editor, columnist and author of *It Is Later Than You Think, The Mind* and *Faith of Justice Holmes,* and other books, will be the principal speaker at the Annual Dinner of the Lawyers Division, Combined Jewish Appeal. The event will be held June 17, 6:30 P.M., Morrison Hotel. Cocktails at 6:00 P.M. will precede the dinner.

"I am confident," Harry X. Cole, Chairman Lawyers Division, said, "that Lawyers of Jewish faith of Chicago will respond this year as in the past generously and quickly to the insistent pleas for help from Israel, Europe, and here at home. Our brethren from Israel look to us to sustain them in their struggle to achieve economic independence and build a bastion of democracy in the Near East."

"Last year," President Paul G. Annes stated, in urging members of our Society to attend this important meeting, "1227 pledges came from the legal profession in this City, for a total of $351,000. We should strive to increase both the number of contributors and the amount raised."

Harry X. Cole is chairman of the Lawyers Division; co-chairmen are: Judges Henry R. Burman, Harry G. Hershenson and Julius J. Hoffman. Judge Samuel B. Epstein is chairman of the Judge's Advisory Council. Abram N. Pritzker is general chairman.

Qualifications

By DOUGLAS MALLOCH

I would like to know nothing just for awhile
And quit all this working and scheming,
Just to sit all day with an idiot's smile
With naught to employ me but dreaming.

I would like to know nothing just for a time,
And cease this mad struggle for money;
I would like to forget even reason and rhyme
And have all my sorrows seem funny.

I would like to know nothing just for a day,
With nothing to trouble or worry,
And if all my sense should vanish away
Perhaps I could sit on a jury.

—From *The Judicial Humorist*
Edited by WILLIAM C. PROSSER
Courtesy, Little, Brown & Co.

. . . . THOSE ALONE MAY BE SERVANTS OF THE LAW WHO LABOR WITH LEARNING, COURAGE AND DEVOTION TO PRESERVE LIBERTY AND PROMOTE JUSTICE.

—University of Virginia Law School.